

JOHN T. GORMAN  
Federal Public Defender  
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Attorney for Defendant  
XIAN LONG YAO

**FILED**  
DISTRICT COURT OF GUAM

MAY - 9 2007 *mba*

**MARY L.M. MORAN**  
**CLERK OF COURT**

IN THE UNITED STATES DISTRICT COURT  
FOR THE TERRITORY OF GUAM

UNITED STATES OF AMERICA,	) CR 07-00043
	)
Plaintiff,	) <del>NOTICE OF MOTION</del> ; MOTION TO
	) <del>WITHDRAW AS COUNSEL</del> ;
vs.	) MEMORANDUM OF LAW;
	) DECLARATION OF COUNSEL;
XIAN LONG YAO,	) CERTIFICATE OF SERVICE
	)
Defendant.	)
_____	)

**MOTION TO WITHDRAW AS COUNSEL**

COMES NOW the defendant, XIAN LONG YAO, through counsel, John T. Gorman, Federal Public Defender, and moves this Honorable Court to permit the Office of the Federal Public Defender to withdraw from representation of XIAN LONG YAO because of a conflict with a current client of the Office of the Federal Public Defender. This motion is based upon the attached Memorandum of Law and the Declaration of Counsel.

**MEMORANDUM OF LAW**

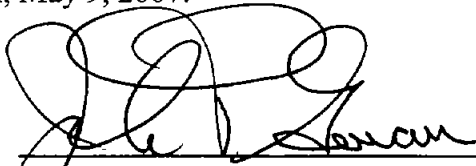
The American Bar Association Model Rules of Professional Conduct (ABA MRPC), provide that a lawyer shall not reveal confidential information relating to the representation of a

ORIGINAL

client unless the client consents. Rule 1.6, ABA MRPC. The Model Rules also provide that a lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client. Rule 1.7(b) ABA MRPC.

The government has provided discovery for this case which indicates that Xiao Feng Lin may be a key witness against Mr. Yao at trial. Mr. Lin is represented by the Office of The Federal Public Defender in U.S. District Court case number, CR 05-00065. Thus, the Office of Federal Public Defender's ethically mandated zealous defense of Mr. Yao may be compromised and called into question by the fact that a key government against Mr. Yao is represented by our office. The Office of the Federal Public Defender can not continue to represent Mr. Yao.

DATED: Mongmong, Guam, May 9, 2007.



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JOHN T. GORMAN  
Attorney for Defendant  
XIAN LONG YAO

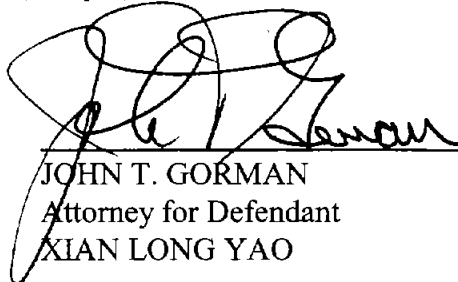
**DECLARATION OF COUNSEL**

I, JOHN T. GORMAN, hereby declare as follows:

1. That I am counsel for defendant, XIAN LONG YAO, having been appointed pursuant to the Criminal Justice Act on April 26, 2007.
2. That Mr. Xiao Feng Lin is represented by the Office of The Federal Public Defender in U.S. District Court case number, CR 05-00065.
3. That the government has provided discovery for this case which indicates that Mr. Lin may be a key witness against Mr. Yao at trial.
4. That the Office of Federal Public Defender's ethically mandated zealous defense of Mr. Yao may be seriously compromised and called into question by the fact that a key government witness against Mr. Yao is a client of our office
5. That the facts and statements set forth in the foregoing document are true and correct to the best of my knowledge and belief.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

DATED: Mongmong, Guam, May 9, 2007.

  
\_\_\_\_\_  
JOHN T. GORMAN  
Attorney for Defendant  
XIAN LONG YAO

**CERTIFICATE OF SERVICE**

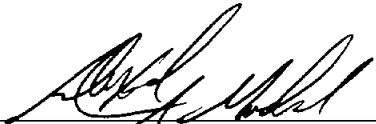
I, RENATE A. DOEHL, hereby certify that a true and exact copy of the foregoing document was filed with U.S. District Court and electronically served by the U.S. District Court Clerk's Office to the following on May 9, 2007:

KARON V. JOHNSON  
Assistant United States Attorney  
Sirena Plaza  
108 Hernan Cortez, Ste. 500  
Hagatna, Guam 96910

Attorney for Plaintiff  
UNITED STATES OF AMERICA

F. MICHAEL CRUZ  
Chief U.S. Probation Officer  
U.S. Probation Office  
Districts of Guam and NMI  
2<sup>nd</sup> Floor, U.S. District Court

DATED: Mongmong, Guam, May 9, 2007.

  
for \_\_\_\_\_  
RENATE A. DOEHL  
Legal Secretary to

JOHN T. GORMAN  
Attorney for Defendant  
XIAN LONG YAO